

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

| | | |
|--|---|-------------------------|
| GREGORY McKENNA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 4:09cv1113 CDP |
| |) | |
| THE ST. LOUIS POLICE DEPARTMENT, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

**DEFENDANT APPLE INC.'S MOTION TO DISMISS
PURSUANT TO FED.R.CIV.P. 12(b)(1) AND FED.R.CIV.P. 12(b)(6)**

Defendant Apple Inc., pursuant to Rule 12(b)(1) and Rule 12(b)(6) of the Federal Rules of Civil Procedure, moves this Court to dismiss the Complaint filed by pro se Plaintiff Gregory McKenna ("Plaintiff"). As detailed in the accompanying memorandum of law, this Court lacks jurisdiction over Plaintiff's claims and Plaintiff's Complaint violates Rule 8(a) of the Federal Rules of Civil Procedure.

FOR RELIEF Defendant Apple Inc. respectfully requests that this Court dismiss Plaintiff's Complaint with prejudice, and that this Court grant Apple all other appropriate relief.

Respectfully submitted,

THOMPSON COBURN LLP

/s/ Kathy A. Wisniewski

Kathy A. Wisniewski

kwisniewski@thompsoncoburn.com

John W. Rogers

jrogers@thompsoncoburn.com

One US Bank Plaza

St. Louis, MO 63101

(314) 552-6000

(314) 552-7000 (facsimile)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 5th day of October, 2009, a true and accurate copy of Defendant Apple Inc.'s Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(1) and Fed.R.Civ.P. 12(b)(6) was forwarded, via first-class mail, postage prepaid, to:

Gregory McKenna
9937 Young Drive, H
Beverly Hills, CA 90212

/s/ Kathy A. Wisniewski